

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**CHERYL LYNNE REECE**  
**a.k.a. CHERYL LYNNE DAVOLT**  
**30654 Stern**  
**Menifee, CA 92584**

**Registered Nurse License No. 733393**

Respondent

Case No. 2012-389

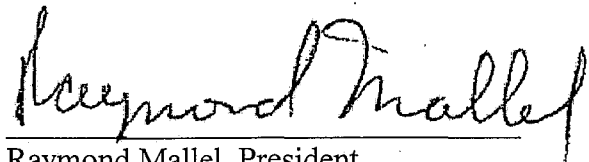
OAH No. 2012020559

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 28, 2013.

IT IS SO ORDERED February 26, 2013.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
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15 **Registered Nurse License No. 733393**

16 Respondent.

Case No. 2012-389

OAH No. 2012020559

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPROVAL**

**[Bus. & Prof. Code § 495]**

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer  
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order for  
20 Public Reproval which will be submitted to the Board for approval and adoption as the final  
21 disposition of the Accusation.

22 **PARTIES**

23 1. LOUISE R. BAILEY, M.ED., RN (Complainant) is the Executive Officer of the  
24 Board of Registered Nursing. She brought this action solely in her official capacity and is  
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
26 Marichelle S. Tahimic, Deputy Attorney General.

27 ///

2. Respondent Cheryl Lynne Reece aka Cheryl Lynne Davolt (Respondent) is represented in this proceeding by attorney Sam Spital, Esq. whose address is: Spital and Associates, 8880 Rio San Diego, Suite 800, San Diego, CA 92108, telephone (619) 583-0350.

3. On or about August 1, 2008, the Board of Registered Nursing issued Registered Nurse License No. 733393 to Cheryl Lynne Reece aka Cheryl Lynne Davolt (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-389 and will expire on January 31, 2014, unless renewed.

#### JURISDICTION

4. Accusation No. 2012-389 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 21, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-389 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-389. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 2012-389.

4 9. Respondent agrees that her Registered Nurse License is subject to discipline and she  
5 agrees to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth  
6 in the Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Registered Nursing.  
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
10 Registered Nursing may communicate directly with the Board regarding this stipulation and  
11 settlement, without notice to or participation by Respondent or her counsel. By signing the  
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
15 Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be  
16 inadmissible in any legal action between the parties, and the Board shall not be disqualified from  
17 further action by having considered this matter.

18 11. The parties understand and agree that facsimile and/or electronic copies of this  
19 Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile and/or  
20 electronic signatures thereto, shall have the same force and effect as the originals.

21 12. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by  
22 the parties to be an integrated writing representing the complete, final, and exclusive embodiment  
23 of their agreement. It supersedes any and all prior or contemporaneous agreements,  
24 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated  
25 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,  
26 supplemented, or otherwise changed except by a writing executed by an authorized representative  
27 of each of the parties.  
28

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 733993 issued to Respondent Cheryl Lynne Reece aka Cheryl Lynne Davolt (Respondent) shall, by way of letter from the Board's Executive Officer, be publicly reprovod. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

IT IS FURTHER ORDERED that Respondent shall pay \$2,085.00 to the Board for its costs associated with the investigation and enforcement of this matter pursuant to a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed it with my attorney, Sam Spital. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 9/12/12

Cheryl Lynne Reece  
CHERYL LYNNE REECE  
aka CHERYL LYNNE DAVOLT  
Respondent

I have read and fully discussed with Respondent Cheryl Lynne Reece aka Cheryl Lynne Davolt, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reproval. I approve its form and content.

DATED: 9/12/12

Sam Spital  
SAM SPITAL, Esq.  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: *Sept. 13, 2012*

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General

*Marichelle S. Tahimic*  
MARICHELE S. TAHIMIC  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-389**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-389

12 **CHERYL LYNNE REECE**  
13 **aka CHERYL LYNNE DAVOLT**  
**30654 Stern**  
**Menifee, CA 92584**

**A C C U S A T I O N**

14 **Registered Nurse License No. 733393**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

- 18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing, State of California.  
20 2. On or about August 1, 2008, the Board of Registered Nursing issued Registered  
21 Nurse License Number 733393 to Cheryl Lynne Reece (Respondent). The Registered Nurse  
22 License was in full force and effect at all times relevant to the charges brought herein and will  
23 expire on January 31, 2014, unless renewed.

24 **JURISDICTION**

- 25 3. This Accusation is brought before the Board of Registered Nursing (Board) for the  
26 Department of Consumer Affairs, State of California, under the authority of the following laws.  
27 All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

• • • •

7. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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1 (c) Be convicted of a criminal offense involving the prescription, consumption,  
2 or self-administration of any of the substances described in subdivisions (a) and (b) of  
3 this section, or the possession of, or falsification of a record pertaining to, the  
4 substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

.....

5 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
6 revoke a license on the ground that the licensee has been convicted of a crime substantially  
7 related to the qualifications, functions, or duties of the business or profession for which the  
8 license was issued.

9 9. Section 493 of the Code states:

10 Notwithstanding any other provision of law, in a proceeding conducted by a  
11 board within the department pursuant to law to deny an application for a license or to  
12 suspend or revoke a license or otherwise take disciplinary action against a person  
13 who holds a license, upon the ground that the applicant or the licensee has been  
14 convicted of a crime substantially related to the qualifications, functions, and duties  
15 of the licensee in question, the record of conviction of the crime shall be conclusive  
evidence of the fact that the conviction occurred, but only of that fact, and the board  
may inquire into the circumstances surrounding the commission of the crime in order  
to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
17 'registration.'

## 18 REGULATORY PROVISIONS

19 10. California Code of Regulations, title 16, section 1444, states:

20 A conviction or act shall be considered to be substantially related to the  
21 qualifications, functions or duties of a registered nurse if to a substantial degree it  
22 evidences the present or potential unfitness of a registered nurse to practice in a  
manner consistent with the public health, safety, or welfare. Such convictions or  
acts shall include but not be limited to the following:

23 (a) Assaultive or abusive conduct including, but not limited to, those violations  
24 listed in subdivision (d) of Penal Code Section 11160.

25 (b) Failure to comply with any mandatory reporting requirements.

26 (c) Theft, dishonesty, fraud, or deceit.

27 (d) Any conviction or act subject to an order of registration pursuant to Section  
28 290 of the Penal Code.

///

1 11. California Code of Regulations, title 16, section 1445 states:

2 .....

3 (b) When considering the suspension or revocation of a license on the grounds  
4 that a registered nurse has been convicted of a crime, the board, in evaluating the  
5 rehabilitation of such person and his/her eligibility for a license will consider the  
6 following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

10 (4) Whether the licensee has complied with any terms of parole,  
11 probation, restitution or any other sanctions lawfully imposed against the licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant to  
13 Section 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

### 15 **COST RECOVERY**

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licensee found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

### 20 **FIRST CAUSE FOR DISCIPLINE**

21 **(June 28, 2011 Criminal Convictions for DUI on March 30, 2011)**

22 13. Respondent has subjected her registered nurse license to disciplinary action under  
23 sections 490 and 2761, subdivision (f) of the Code in that she was convicted of crimes that are  
24 substantially related to the qualifications, functions, and duties of a registered nurse. The  
25 circumstances are as follows:

26 a. On or about March 30, 2011, in a criminal proceeding entitled *People of the*  
27 *State of California v. Cheryl Lynne Reece, aka Cheryl Lynne Davolt*, in Riverside County  
28 Superior Court, case number SWM1103037, Respondent was convicted on her plea of guilty of  
violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol; and  
Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC)  
of 0.08% or more, misdemeanors. Respondent admitted and the court found true the allegation

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1 that Respondent's BAC was .15% or more, a sentencing enhancement pursuant to Vehicle Code  
2 section 23578.

3 b. As a result of the convictions, on or about June 28, 2011, Respondent was  
4 sentenced to three years summary probation and ordered to serve 10 days in jail or Work Release  
5 Program with credit for time served of 2 actual days. Respondent was further ordered to  
6 complete a Nine-Month Level 2 First Offender Alcohol Program, pay \$2,364.45 in fees, fines,  
7 and restitution, and comply with the terms of standard DUI probation.

8 c. The facts that led to the conviction are that in or about the late evening of  
9 March 30, 2011, an officer saw a white truck that was stopped for a red light in the left turn lane  
10 to go east on Channel Street from Butterfield Stage Road in the City of Temecula, California.  
11 When the light turned green, the truck went straight on Butterfield Stage Road instead of turning  
12 left. The officer initiated an enforcement stop of the vehicle and contacted the driver, later  
13 identified as Respondent. The officer observed she was exhibiting symptoms consistent of being  
14 under influence. Another officer evaluated Respondent for DUI. When asked how much she had  
15 to drink, Respondent admitted that she had been drinking at a party. The officer observed distinct  
16 a odor of alcohol coming from Respondent's breath and that she had bloodshot eyes, slurred  
17 speech, droopy face, unsteady gait and staggering walk. Respondent failed the Gaze Nystagmus  
18 test and field sobriety tests. Respondent's breath test showed her BAC as .20 percent.  
19 Respondent was placed under arrest for for driving under the influence.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

22 14. Respondent has subjected her registered nurse license to disciplinary action under  
23 section 2762, subdivision (b) of the Code, in that on or about March 30, 2011, as described in  
24 paragraph 13, above, Respondent used alcoholic beverages to an extent or in a manner that was  
25 potentially dangerous and injurious to herself, and to others when she operated a motor vehicle  
26 while impaired with a significantly high blood alcohol concentration.

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28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offenses)**

3 15. Respondent has subjected her registered nurse license to disciplinary action under  
4 section 2762, subdivision (c) of the Code in that on or about March 30, 2011, as described in  
5 paragraph 15, above, Respondent was convicted of criminal offenses involving the consumption  
6 and/or self-administration of alcohol.

7 **PRAYER**


8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking or suspending Registered Nurse License Number 733393, issued to  
11 Cheryl Lynne Reece

12 2. Ordering Cheryl Lynne Reece to pay the Board of Registered Nursing the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
14 Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16  
17  
18  
19 DATED: December 21, 2011

  
LOUISE R. BAILEY  
Executive Officer  
Board of Registered Nursing  
State of California  
State of California  
Complainant

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24 SD2011801569  
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**Exhibit B**

**Letter of Public Reapproval in Case No. 2012-389**

**Board of Registered Nursing**  
P O Box 944210, Sacramento, CA 94244-2100  
P (916) 322-3350 | [www.rn.ca.gov](http://www.rn.ca.gov)  
**Louise R. Bailey, M.ED., RN, Executive Officer**



February 26, 2013

Cheryl Lynne Reece  
30654 Stern  
Menifee, CA 92584

RE: LETTER OF PUBLIC REPROVAL

In the Matter of the Accusation Against: Cheryl Lynne Reece aka Cheryl Lynne Davolt  
Registered Nurse License No. 733393

Dear Ms. Reece:

On December 21, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleged that you engaged in unprofessional conduct on March 30, 2011 when you drove under the influence of alcohol with a BAC of .08% or greater, under Business and Professions Code sections 490 and 2761, subdivision (f), for conviction of a crime substantially related to the qualifications, functions and duties of a Registered Nurse on June 28, 2011; under Business and Professions Code section 2762, subdivision (b) for use of an alcoholic beverage to an extent or in a manner that was potentially dangerous and injurious to yourself and others; and under Business and Professions Code section 2762, subdivision (c) for conviction of an alcohol-related offense on June 28, 2011.

You have been licensed since August 1, 2008 without prior discipline. You have been fully compliant with the criminal court's probation sentence and have paid all fines and fees. You participated in a DUI program consisting of 44 hours of group counseling, 12 hours of alcohol/drug education, 9 half hour face-to-face interviews, a 30 minute exit interview, and attendance at 18 self help meetings. Your supervisors attest to your "exemplary, safe nursing care", your professionalism and your ability to make the right decision. Further, you received an excellent performance evaluation from your prior employer. And also taking account that this is an isolated incident, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a Registered Nurse, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,

*Louise R. Bailey M.ED., RN*  
LOUISE R. BAILEY, M.ED., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California